

## REMARKS

By this Amendment, Applicant amends the specification to correct an informality according to the Examiner's suggestion. Applicant also amends claims 1, 3, 4, 7, 8, and 14. Claims 1-10 and 14 are currently pending.

In the Office Action, the Examiner allowed claim 14 and indicated allowable subject matter in claims 7, 8, and 10. The Examiner objected to the specification as containing informalities; and objected to claims 1, 3, 4, 7, 8, and 14 as containing informalities. The Examiner rejected claims 4-10 under 35 U.S.C. § 112, second paragraph as indefinite; rejected claims 1-3 under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,438,752 to McClard ("McClard"); rejected claim 4 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 5,870,395 to Baran ("Baran") in view of McClard and further in view of U.S. Patent No. 6,075,972 to Laubach et al. ("Laubach"); and rejected claims 5, 6, and 9 as unpatentable under 35 U.S.C. § 103(a) over Baran in view of McClard and further in view of Laubach and U.S. Patent No. 6,226,794 to Anderson, Jr. et al. ("Anderson").<sup>1</sup>

Applicant thanks the Examiner for allowing claim 14 and pointing out allowable subject matter in claims 7, 8, and 10. Applicant respectfully traverses the Examiner's objections and rejections.

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<sup>1</sup> The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

### **Regarding Specification Objections**

Applicant has amended the specification to correct the informality on page 16 according to the Examiner's suggestion. Accordingly, Applicant respectfully requests withdrawal of the objection to the specification.

### **Regarding Claim Objections**

Applicant respectfully traverses the Examiner's objection to claims 1, 3, 4, 7, 8, and 14 as containing informalities. However, to expedite the prosecution of this application, Applicant has amended claim 3, 4, 7, 8, and 14, to correct informalities according to the Examiner's suggestion. Accordingly, Applicant respectfully requests withdrawal of the objection to claims 3, 4, 7, 8, and 14.

The Examiner also alleged that "in claims 1 and 4, 'configured to/for' should be changed." (Office Action at 3.) Applicant respectfully disagrees. Applicant points out that "if the applicant discloses only the functions to be performed and provides no express, implied or inherent disclosure of hardware or a combination of hardware and software that performs the functions, the application has not disclosed any "structure" which corresponds to the claimed means. . . . In contrast, if the corresponding structure is disclosed to be a memory or logic circuit that has been configured in some manner to perform that function (e.g., using a defined computer program), the application has disclosed "structure" which corresponds to the claimed means." M.P.E.P § 2106(V)(A)(2), emphasis added. Accordingly, Applicant respectfully requests withdrawal of the objection to claims 1 and 4.

### **Regarding the Rejections Under 35 U.S.C. § 112**

Applicant respectfully traverses the Examiner's rejection of claims 4-10 under 35 U.S.C. § 112, second paragraph as indefinite. However, to expedite the prosecution of this application, Applicant has amended claims 4 to recite "a filter unit" instead of "filter means," as suggested by the Examiner. Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 4-10.

### **Regarding the Rejections Under 35 U.S.C. § 102**

Applicant respectfully traverses the Examiner's rejection of claims 1-3 under 35 U.S.C. § 102(e) as anticipated by McClard. In order to anticipate Applicant's claimed invention under 35 U.S.C. § 102, each and every element of the claim in issue must be found, either expressly described or under principles of inherency, in a single prior art reference. Further, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." See M.P.E.P. § 2131, quoting Richardson v. Suzuki Motor Co., 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Claim 1, as amended, recites a combination including, for example, "a transmitting apparatus configured to send multiplexed program data and to transmit a schedule table indicating a multiplexing schedule of data to be transmitted to a receiving apparatus." McClard fails to disclose at least the above element required by amended claim 1.

McClard teaches "a program database 36 that stores the program information, including the running period (as determined by the program start time and end time) and the content/genre category of each program available during a particular time frame, such a day period." McClard, column 4, lines 34-39. McClard mentions that "[t]he

program information is preferably downloaded from program database 36 at head-end server 34 to set-top box 38 on a prearranged schedule, for example, at 2 a.m. each morning for the next day's programming. In addition, set-top box 38 is provided with a tuner 60 for tuning program receiver 58 to selected channels." McClard, column 4, line 66 to column 5, line 4. However, McClard's teaching of television program information does not constitute "a transmitting apparatus configured to send multiplexed program data and to transmit a schedule table indicating a multiplexing schedule of data to be transmitted to a receiving apparatus," as recited by amended claim 1, emphasis added.

Therefore, McClard fails to disclose each and every element of amended claim 1. McClard thus cannot anticipate claim 1 under 35 U.S.C. § 102. Accordingly, Applicant respectfully requests withdrawal of the rejection of claim 1. Further, because claims 2 and 3 depend from claim 1, Applicant also requests withdrawal of the rejection of claims 2 and 3 for at least the same reasons stated above.

#### **Regarding the Rejections Under 35 U.S.C. § 103**

Applicant respectfully traverses the Examiner's rejection of claim 4 under 35 U.S.C. § 103(a) as unpatentable over Baran in view of McClard and further in view of Laubach. In order to establish a *prima facie* case of obviousness, three basic criteria must be met. First, the prior art reference (or references when combined) must teach or suggest all the claim elements. Second, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or to combine reference teachings. Third, there must be a reasonable expectation of success. See M.P.E.P. § 2143.

Claim 4, as amended, recites a combination including, for example, “wherein the filter unit is configured to receive the first transfer schedule table information and the second transfer schedule table information transmitted from the first transmitting/receiving apparatus, for filtering data transmitted from the first transmitting/receiving apparatus, based on the first transfer schedule table information, and for filtering data transmitted from the second transmitting/receiving apparatus to the first transmitting/receiving apparatus, based on the second transfer schedule table information.” Baran fails to teach or suggests at least the above element as recited by claim 4.

Baran discloses “the necessary modifications to the conventional cable TV system . . . with the addition of another filtering device 60 added between the downstream junction point of an amplifier 10 and downstream feeder cable 8.” Baran, column 5, lines 16-24. “Filter 60 includes two sections, a low pass section for passing the 5-+MHz and TV signals from filter assembly 10 to feeder cable 8 and a high pass section to couple the 500-700 MHz signals to/from the optical fiber network shown at the FIG. 3 (described more completely below) to feeder cable 8.” Baran, column 5, lines 43-48. However, Baran’s teaching of TV signal filter does not constitute “wherein the filter unit is configured to receive the first transfer schedule table information and the second transfer schedule table information transmitted from the first transmitting/receiving apparatus, for filtering data transmitted from the first transmitting/receiving apparatus, based on the first transfer schedule table information, and for filtering data transmitted from the second transmitting/receiving apparatus to the first

transmitting/receiving apparatus, based on the second transfer schedule table information,” as recited by claim 4, emphasis added.

McClard fails to cure Baran's deficiencies. As explained above, McClard discloses that “[t]he program information is preferably downloaded from program database 36 at head-end server 34 to set-top box 38 on a prearranged schedule, for example, at 2 a.m. each morning for the next day’s programming. In addition, set-top box 38 is provided with a tuner 60 for tuning program receiver 58 to selected channels.” McClard, column 4, line 66 to column 5, line 4. However, McClard's teaching of television program schedule does not constitute a teaching of “wherein the filter unit is configured to receive the first transfer schedule table information and the second transfer schedule table information transmitted from the first transmitting/receiving apparatus, for filtering data transmitted from the first transmitting/ receiving apparatus, based on the first transfer schedule table information, and for filtering data transmitted from the second transmitting/receiving apparatus to the first transmitting/receiving apparatus, based on the second transfer schedule table information,” as recited by claim 4, emphasis added.

Laubach fails to cure the deficiencies of both Baran and McClard. Laubach discloses “[a] two-way CATV network having a radio return path. A cable head end controller is used to control downstream as well as upstream communications over the two-way CATV network.” Laubach, abstract. “Techniques for ranging the cable modems produce a timing alignment condition such that if two cable modems are both instructed to simultaneously transmit an ATM cell in the same slot, the first bit from each cable modem transmission would arrive at the head end receiver port cards 104 at the

same time. This ranging/slotted scheme enables the head end controller 102 to schedule transmissions by issuing grant messages to the cable modems A and B.” Laubach, column 10, lines 42-50, emphasis added. However, Laubach’s teaching of sending grant message does not constitute “wherein the filter unit is configured to receive the first transfer schedule table information and the second transfer schedule table information transmitted from the first transmitting/receiving apparatus, for filtering data transmitted from the first transmitting/ receiving apparatus, based on the first transfer schedule table information, and for filtering data transmitted from the second transmitting/receiving apparatus to the first transmitting/receiving apparatus, based on the second transfer schedule table information,” as recited by claim 4, emphasis added.

Therefore, none of Baran, McClard, and Laubach teaches or suggests all elements of claim 4. A prima facie case of obviousness cannot be established. Claim 4 is thus allowable over Baran in view of McClard and further in view of Laubach. Accordingly, Applicant respectfully requests withdrawal of the rejection of claim 4.

Applicant also respectfully traverses the Examiner’s rejection of claims 5, 6, and 9 as unpatentable under 35 U.S.C. § 103(a) over Baran in view of McClard and further in view of Laubach and Anderson. Claims 5, 6, and 9 depend from claim 4, either directly or indirectly.

As explained, Baran, McClard, and Laubach fail to teach or suggest “wherein the filter unit is configured to receive the first transfer schedule table information and the second transfer schedule table information transmitted from the first transmitting/receiving apparatus, for filtering data transmitted from the first transmitting/ receiving apparatus, based on the first transfer schedule table information, and for

filtering data transmitted from the second transmitting/receiving apparatus to the first transmitting/receiving apparatus, based on the second transfer schedule table information,” as required by claim 4. Anderson fails to cure the above deficiencies.

Anderson discloses “[a] set top terminal for receiving information transmitted from a service provider, for receiving control information transmitted by a service provider, and for transmitting control information from the set top terminal to the service provider to interactively control the services that are being received.” Anderson, abstract.

However, Anderson fails to teach or suggest at least “wherein the filter unit is configured to receive the first transfer schedule table information and the second transfer schedule table information transmitted from the first transmitting/receiving apparatus, for filtering data transmitted from the first transmitting/ receiving apparatus, based on the first transfer schedule table information, and for filtering data transmitted from the second transmitting/receiving apparatus to the first transmitting/receiving apparatus, based on the second transfer schedule table information,” as recited by claim 4, emphasis added.

Therefore, none of Baran, McClard, Laubach, and Anderson teaches or suggests all elements of claim 4. Claim 4 is thus allowable over Baran in view of McClard, Laubach, and Anderson. Because claims 5, 6, and 9 depend from claim 4, claims 5, 6, and 9 are also allowable for at least the same reasons as stated above. Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 5, 6, and 9.

### **Conclusion**

In view of the foregoing amendments and remarks, Applicant respectfully requests entry of this Amendment and a timely issuance of a Notice of Allowance.

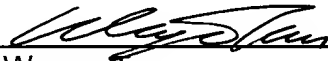


Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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